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DATE FILED: OCT 12 2012

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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OBA HASSAN WAT BEY, ET AL.,
Plaintiffs,

-v-

CITY OF NEW YORK, ET AL.,
Defendants.
-----X

99 Civ. 03873 (AJN)

01 Civ. 09406 (AJN)

ORDER

ALISON J. NATHAN, District Judge:

On October 11, 2012, the Court was alerted by letter that Mr. Schlachter, counsel for Plaintiffs Ebanks, Nichols, and Hinnant, had fallen ill and was uncertain whether he would be able to proceed with trial as scheduled on October 15, 2012. The Court ordered that Mr. Schlachter submit a note from his treating physician confirming his illness and the dates he would be too ill to proceed with trial.

The Court also held a telephonic conference on October 11, 2012, to discuss how to proceed in light of Mr. Schlachters' illness. Counsel for the remaining plaintiffs, Ms. Thomas, expressed her objection to moving the trial date as burdensome to both herself and her clients, and asked that the Thomas Plaintiffs' claims be severed from those of the Schlachter Plaintiffs so that trial could proceed as scheduled for the Thomas Plaintiffs. Defendants objected, noting that it would be extremely burdensome and inefficient to litigate claims arising out of the same transactions and occurrences multiple times, and argued that a short adjournment of the trial date was appropriate.

That evening, the Court received a letter from Mr. Schlachter's physician confirming his illness and that he would be unable to work until October 29, 2012. As such, the Court reluctantly adjourns the trial date until October 29, 2012. The Court recognizes and is sympathetic to the disruption this causes the Thomas Plaintiffs and Ms. Thomas—through no fault of their own—and the financial hardship attendant to this disruption. However, this financial burden and inconvenience does not outweigh the prejudice associated with proceeding with trial on October 15.

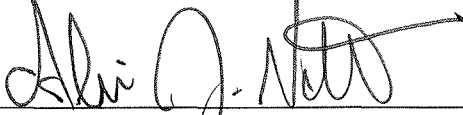
The prejudice to the Schlachter Plaintiffs associated with maintaining the trial date for all Plaintiffs is severe, as Mr. Schlachter is a solo practitioner and the lengthy history of this case renders it unrealistic for him to retain associate counsel on only three days notice. Maintaining the trial date would therefore leave the Schlachter Plaintiffs essentially unrepresented at trial.

Moreover, severance of the claims of the Thomas Plaintiffs would require litigating twice what are essentially common claims, based on the same facts and with the same witnesses. This course would impose significant burdens on numerous non-party witnesses, the Defendants, and defense counsel. Likewise, it would also be a highly inefficient use of the time and resources of

the Court to proceed in this fashion. On the record before the Court, the Court concludes that a two week adjournment of a two or three week trial is the most reasonable and fair approach to take under the circumstances.

The conference scheduled for 11:00 am today, October 12, 2012, is adjourned to October 19, 2012, at 11:00 am. Mr. Schlachter may appear at that conference telephonically.

Dated: October 12, 2012
New York, New York



ALISON J. NATHAN
United States District Judge